

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VICTOR DAVID CARRASQUILLO, :
#NP8848, :
Plaintiff, :
v. :
:(JUDGE MARIANI)
THERESA DELBASO, et al., :
:(Magistrate Judge Saporito)
Defendants. :

ORDER

AND NOW, THIS 10th DAY OF JANUARY 2020, upon consideration of
Magistrate Judge Saporito's Report and Recommendation ("R&R") (Doc. 20) for clear error
or manifest injustice, IT IS HEREBY ORDERED THAT:

1. The R&R (Doc. 20) is **ADOPTED** for the reasons set forth therein;
2. The Moving Defendants' Motion to Dismiss (Doc. 7) is **GRANTED IN PART** and
DENIED IN PART;
3. Plaintiff's claims for damages and retrospective declaratory relief against all
Defendants in their official capacity are **DISMISSED with prejudice** for lack of
subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil
Procedure;¹

¹ For the reasons set forth in the R&R, amendment with respect to claims subject to dismissal would be futile and, therefore, dismissed claims are properly dismissed with prejudice and without leave to amend. (Doc. 20 at 21 (citing *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108 (3d Cir. 2002))).

4. Plaintiff's claims for retrospective declaratory relief against all Defendants in their personal capacity are **DISMISSED with prejudice** for failure to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1) and 42 U.S.C. § 1997e(c)(1);
5. Plaintiff's claims for damages against Defendants Theresa DelBalso and Michael Damore in their personal capacity are **DISMISSED with prejudice** for failure to state a claim upon which relief can be granted, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure;
6. Plaintiff's claims for damages and prospective injunctive relief against Defendant Christine Griffin in her personal capacity are **DISMISSED with prejudice** for failure to state a claim upon which relief can be granted, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure;
7. Plaintiff's claims for damages and prospective injunctive relief against Defendants Scott Miller, Michelle Heenan, Steven Nicola, and Kevin Kellner, and his claims for prospective injunctive relief against Defendants Theresa DelBalso and Michael Damore go forward;
8. This matter is remanded to the Magistrate Saporito for further proceedings.



Robert D. Mariani
United States District Judge